

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

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| USDC SDNY |
| DOCUMENT |
| ELECTRONICALLY FILED |
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| DATE FILED: SEP 01 2005 |

- v. -

: INDICTMENT

CYRIL SMITH,
a/k/a "Nicholas Smith,"
a/k/a "Nicholas Wright,"
a/k/a "Mark Nicholas Smith,"
a/k/a "Zero,"

: 05 Cr. ()

Defendant. :

05CRIM. 922

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COUNT ONE

JUDGE COTE

The Grand Jury charges:

1. From at least in or about 1998, up to and including in or about 2002, in the Southern District of New York and elsewhere, CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly, did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, 50 grams and more of mixtures and substances containing a detectable

amount of cocaine base, in a form commonly known as "crack," in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

3. It was a further part and an object of the conspiracy that CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, one kilogram and more of mixtures and substances containing a detectable amount of heroin, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

4. It was a further part and an object of the conspiracy that CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, to wit, five kilograms and more of mixtures and substances containing a detectable amount of cocaine, in violation of Sections 812, 841(a)(1), and 841(b)(1)(A) of Title 21, United States Code.

Overt Acts

5. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York:

a. In or about 1999, a co-conspirator not named as a defendant herein ("CW-1") sold quantities of cocaine and heroin in the vicinity of Monterey Avenue, Bronx, New York.

b. In or about 1999, SMITH and another co-conspirator not named as a defendant herein ("CW-2") participated in armed robberies and burglaries of suspected drug dealers in the Bronx, Manhattan, and elsewhere, and stole quantities of cocaine.

c. In or about 1999, CW-2 sold some of the stolen cocaine to CW-1, who in turn sold the cocaine in the vicinity of Monterey Avenue, Bronx, New York.

d. In or about 1999, SMITH engaged in a conversation in the Bronx, New York, with CW-1 and CW-2 regarding a plan to murder Sanford Malone, a rival narcotics trafficker.

e. On or about February 14, 2000, SMITH murdered Sanford Malone, a rival narcotics trafficker, in the vicinity of 1908 Bathgate Avenue, Bronx, New York.

(Title 21, United States Code, Section 846.)

COUNT TWO

The Grand Jury further charges:

6. On or about February 14, 2000, in the Southern District of New York, while engaged in an offense punishable under Section 841(b)(1)(A) of Title 21, United States Code, to wit, the narcotics conspiracy charged in Count One of this

Indictment, CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly killed, and counseled, commanded, induced, procured, and caused the intentional killing of Sanford Malone in the vicinity of 1908 Bathgate Avenue, Bronx, New York.

(Title 21, United States Code, Section 848(e)(1)(A); and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

7. On or about February 14, 2000, in the Southern District of New York, CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, unlawfully, willfully, and knowingly, during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, namely, the conspiracy to distribute narcotics charged in Count One of this Indictment, did use and carry a firearm, and, in furtherance of such crime, did possess a firearm, to wit, a 9-millimeter semi-automatic pistol, which SMITH used to cause the death of Sanford Malone, which killing is murder as defined in Title 18, United States Code, Section 1111(a).

(Title 18, United States Code, Sections 924(j) and 2.)

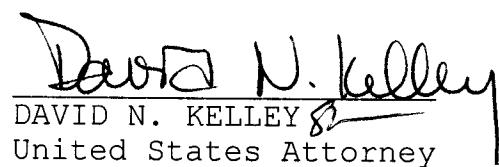
COUNT FOUR

The Grand Jury further charges:

8. On or about August 30, 2005, in the vicinity of 188th Street and Webster Avenue, Bronx, New York, CYRIL SMITH, a/k/a "Nicholas Smith," a/k/a "Nicholas Wright," a/k/a "Mark Nicholas Smith," a/k/a "Zero," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly did distribute and possess with intent to distribute a controlled substance, to wit, mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack."

(Title 21, United States Code, Sections 812, 841(a)(1), 841(b)(1)(C); Title 18, United States Code, Section 2).


FOREPERSON


DAVID N. KELLEY
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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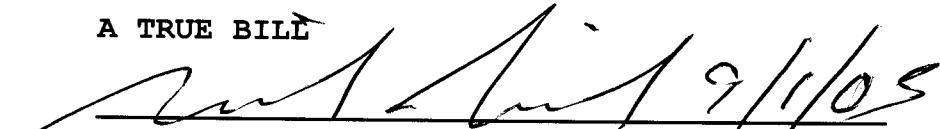
INDICTMENT

05 Cr. ()

(Title 21, United States Code,
Sections 812, 841(a)(1),
841(b)(1)(A), 841(b)(1)(C),
846, 848(e); Title 18, United
States Code, Sections 924(j) & 2.)

DAVID N. KELLEY
United States Attorney.

A TRUE BILL



9/1/05
Foreperson.